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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83248; File No. SR-NYSEArca-2018-32]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Proposed Operation of the Perth Mint Physical Gold ETF Trust

May 15, 2018

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on May 7, 2018, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to reflect a change in the size of a “Basket” applicable to shares of the Perth Mint Physical Gold ETF Trust (“Trust”) from 100,000 Shares to at least 50,000 Shares, and to amend certain other representations in the proposed rule change filed with and approved by the Securities and Exchange Commission (“Commission”) relating to listing and trading of Shares of the Trust on the Exchange.<sup>4</sup> Shares of the Trust have been approved by the Commission for listing and trading on the Exchange under NYSE Arca Rule 8.201-E. The Trust’s shares have not commenced trading on the Exchange. The proposed rule change is

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<sup>1</sup> 15 U.S.C.78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> See note 5, infra.

available on the Exchange's website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission has approved a proposed rule change relating to listing and trading on the Exchange of shares ("Shares") of the Trust for listing and trading on the Exchange under NYSE Arca Rule 8.201-E ("Commodity-Based Trust Shares").<sup>5</sup> The Exchange proposes to reflect a change in the size of a Creation Unit applicable to Shares of the Trust from 100,000 Shares to at least 50,000 Shares, and to amend certain other representations in the proposed rule change filed with and approved by the Commission relating to listing and trading of Shares of the Trust on the Exchange. The Trust's Shares have not commenced trading on the Exchange.

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<sup>5</sup> See Securities Exchange Act Release Nos. 82372 (December 21, 2017), 82 FR 61601 (December 28, 2017) (SR-NYSEArca-2017-140) (NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To List and Trade Shares of the Perth Mint Physical Gold ETF Trust Under NYSE Arca Rule 8.201-E) ("Prior Notice"); 82593 (January 26, 2018), 83 FR 4718 (February 1, 2018) (SR-NYSEArca-2017-140) Order Approving a Proposed Rule Change To List and Trade Shares of the Perth Mint Physical Gold ETF Trust Pursuant to NYSE Arca Rule 8.201-E) ("Prior Order" and, together with the Prior Notice, the "Prior Releases").

The sponsors of the Trust will be the Gold Corporation and Exchange Traded Concepts, LLC (“Sponsors”).<sup>6</sup>

#### Change to the “Basket” Size

The Prior Notice stated that the Trust will issue and redeem “Baskets” equal to a block of 100,000 Shares. The Exchange proposes to reflect a change in the proposed size of a Basket from 100,000 Shares to 50,000 Shares. The size of a Basket will be subject to change, but will not exceed 100,000 Shares. A reduction in the size of a Basket may provide potential benefits to investors by facilitating additional creation and redemption activity in the Shares, thereby potentially resulting in increased secondary market trading activity, tighter bid/ask spreads and narrower premiums or discounts to net asset value (“NAV”).<sup>7</sup>

#### Change to Initial Basket Gold Amount

The Prior Releases stated that the initial Basket Gold Amount is 1,000 Fine Ounces of gold. The Exchange proposes to change this representation to state that the initial Basket Gold

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<sup>6</sup> On April 20, 2018 the Trust filed with the Commission a registration statement on Form S-1 under the Securities Act of 1933 relating to the Trust (File No. 333- 224389) (“Registration Statement”). The description of the operation of the Trust herein is based, in part, on the Registration Statement. The procedures described in this proposed rule change will not be implemented until such proposed rule change is effective and operative.

<sup>7</sup> The Exchange notes that the Commission has approved the listing and trading of other issues of Commodity-Based Trust Shares that have applied a minimum “Creation Unit” size of less than 50,000 shares. See, e.g., Securities Exchange Act Release Nos. 82249 (December 8, 2017), 82 FR 58884 (December 14, 2017) (SR-NYSEArca-2017-110) (Notice of Filing of Amendment No. 2 and Order Approving on an Accelerated Basis a Proposed Rule Change, as Modified by Amendment No. 2, to List and Trade Shares of the GraniteShares Platinum Trust under NYSE Arca Rule 8.201-E); 81918 (October 23, 2017), 82 FR 49884 (October 27, 2017) (SR-NYSEArca-2017-98 ) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, to List and Trade Shares of The Gold Trust under NYSE Arca Rule 8.201-E); 80840 (June 1, 2017), 82 FR 26534 (June 7, 2017) (SR-NYSEArca-2017-33) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 2 Thereto, to List and Trade Shares of the Euro Gold Trust, Pound Gold Trust, and the Yen Gold Trust under NYSE Arca Equities Rule 8.201).

Amount is 500 Fine Ounces of gold. The Sponsors represent that this change corresponds proportionately to the change made in the Basket size to 50,000 Shares.

#### Changes to Representations Regarding Delivery Applicants

As described in the Registration Statement, persons permitted to take delivery of Physical Gold are referred to as “investors” rather than “Delivery Applicants”, as stated in the Prior Notice, and, in connection with such delivery, Shares are delivered to the Gold Corporation and are not surrendered to the Trust, as represented in the Prior Notice. Thus investors that submit an “Application” (rather than a “Delivery Application”, as described in the Prior Notice) to the Gold Corporation<sup>8</sup> will deliver Shares to the Gold Corporation (i.e., Custodian or Custodial Sponsor) rather than to the Trust. The Sponsors represent that, by conducting the delivery process directly through the Gold Corporation, rather than through the Trust, it is anticipated that an investor will save on certain service provider administrative charges, and that the process will therefore be more cost effective for investors.

The Prior Notice stated that the Trust’s primary objective will be to provide investors with an opportunity to invest in gold through the Shares, have the gold securely stored by Gold Corporation and, if requested by an investor, deliver Physical Gold to such investor in exchange for its Shares. However, because investors redeeming Shares would deliver Shares to the Gold Corporation rather than to the Trust, the Trust’s primary objective will be to provide investors with an opportunity to invest in gold through the Shares and have the gold securely stored by

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<sup>8</sup> The Prior Notice stated that “Delivery Application” means a document in a form satisfactory to the Custodian and as set forth the Prior Notice that expresses a Delivery Applicant’s intention to surrender Shares on a Share Submission Day in exchange for an amount of Gold on such Share Submission Day. As defined in the Registration Statement, the term “Application” is defined as a document in a form satisfactory to Gold Corporation that expresses an investor’s intention to deliver shares on a Share Submission Day in exchange for an amount of Physical Gold on such Share Submission Day.

Gold Corporation; the Gold Corporation rather than the Trust will be the entity that delivers Physical Gold to investors in exchange for Shares.

#### Change to Representation Regarding the Government Guarantee

The Prior Notice stated that the Government Guarantee<sup>9</sup> applies to all gold held by the Custodian, whether in the Trust Allocated Metal Account, the Trust Unallocated Metal Account or in a Customer Account, for the benefit of the Trust or a Delivery Applicant.

The Exchange proposes to change this representation to state that the Government Guarantee applies to all gold held by the Custodian or sub-custodian, whether in the Trust Allocated Metal Account, the Trust Unallocated Metal Account, the “GC Metal Account”<sup>10</sup> or in a Customer Account, for the benefit of the Trust or an investor who is the Gold Corporation’s direct customer.

#### Change to Representations Regarding Delivery of Required Deposits

The Prior Notice stated that an Authorized Participant who places a purchase order is responsible for crediting the Trust Unallocated Metal Account with the required gold deposit amount by 9:00 a.m. London time on the third business day following the purchase order date.

The Exchange proposes to change this representation to state that an Authorized Participant who places a purchase order is responsible for crediting its account, if held at the

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<sup>9</sup> See note 29 of the Prior Notice for a description of the Government Guarantee.

<sup>10</sup> The term GC [Gold Corporation] Metal Account is defined in the Registration Statement as one or more designated Gold accounts of which Gold Corporation, in its individual capacity, is the registered owner maintained with one or more LBMA Gold clearing members on an unallocated basis in such location or locations as Gold Corporation may determine and used by Gold Corporation exclusively for transfers of Gold to and from the Trust in connection with the creation and redemption of Baskets. The term is introduced in the Registration Statement to clarify that the Custodian maintains certain accounts that are designed to facilitate transfers of gold when an Authorized Participant elects to transfer gold from a third party unallocated account, and not from an unallocated account maintained with the Gold Corporation.

Custodian, with the required gold deposit amount and, if the Authorized Participant does not maintain its account with the Custodian, causing the required gold deposit amount to be transferred to the Custodian by 8:00 a.m. London time on the second business day following the purchase order date. The Sponsors represent that this change is being made in connection with the implementation of the T+2 settlement cycle for securities transactions in accordance with Rule 15c6-1(a) under the Act.<sup>11</sup>

#### Changes to Redemption Procedures

The Prior Notice further stated that, by placing a redemption order, an Authorized Participant agrees to deliver the Baskets to be redeemed through DTC's book-entry system to the Trust no later than the third business day following the effective date of the redemption order. The Exchange proposes to change this representation to state that, by placing a redemption order, an Authorized Participant agrees to deliver the Baskets to be redeemed through DTC's book-entry system to the Trust no later than the second business day following the effective date of the redemption order. The Sponsors represent that this change is being made in connection with implementation of the T+2 settlement cycle for securities transactions in accordance with Rule 15c6-1(a) under the Act.

The Prior Notice further stated that the redemption distribution due from the Trust is delivered to the Authorized Participant on the next following business day after the Trustee's DTC account has been credited with the Baskets to be redeemed. The Exchange proposes to change this representation to state that the redemption distribution due from the Trust is delivered to the Authorized Participant on the third business day following the redemption date if, by 9:00 a.m. Eastern time on the second business day following the redemption order date, the

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<sup>11</sup> See Securities Exchange Act Release No. 80295 (March 22, 2017), 82 FR 15564 (March 29, 2017).

Trustee's DTC account has been credited with the Baskets to be redeemed. The Sponsors represent that this change is being made in connection with implementation of the T+2 settlement cycle for securities transactions in accordance with Rule 15c6-1(a) under the Act, provided that the redemption distribution will, unless otherwise agreed by the parties, be delivered to the Authorized Participant on the third business day following the redemption date.

The Prior Notice stated that gold is delivered to the Trust and distributed by the Trust through credits and debits between Authorized Participants' accounts, the Trust Unallocated Metal Account and the Trust Allocated Metal Account. When the Trustee requests creation of a basket at an Authorized Participant's request, the Authorized Participant will then transfer gold to the Trust Unallocated Metal Account. The Exchange proposes to change this representation to state that gold is delivered to the Trust and distributed by the Trust through credits and debits between Authorized Participants' accounts, the GC Metal Account, the Trust Unallocated Metal Account and the Trust Allocated Metal Account. When the Trustee requests creation of a basket at an Authorized Participant's request, the Authorized Participant will then transfer gold to the Authorized Participant's account with the Custodian or to the GC Metal Account for credit to the Trust Unallocated Metal Account.

The Sponsors represent that the proposed changes described above are consistent with the Trust's investment objective, and will further assist the Sponsors to achieve such investment objective. Except for the changes noted above, all other representations made in the Prior Releases remain unchanged.<sup>12</sup>

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<sup>12</sup> See note 5, *supra*. All terms referenced but not defined herein are defined in the Prior Releases.

## 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>13</sup> that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The Exchange believes that the change to the size of a Basket to 50,000 Shares may provide potential benefits to investors by facilitating additional creation and redemption activity in the Shares, thereby potentially resulting in increased secondary market trading activity, tighter bid/ask spreads and narrower premiums or discounts to NAV. The reduction in the initial Basket Gold Amount from 1,000 Fine Ounces to 500 Fine Ounces corresponds proportionately to the change proposed to be made in the Basket size to 50,000 Shares.

With respect to the proposed replacement of references in the Prior Notice to Delivery Applicants with “investors” and references to “Delivery Application” with “Application”, as applicable, and to specify that an investor delivers Shares to the Gold Corporation rather than to the Trust, the Sponsors represent that, by conducting the delivery process directly through the Gold Corporation, rather than through the Trust, it is anticipated that an investor will save on certain service provider administrative charges, and that the process will therefore be more cost effective for investors.

With respect to proposed changes to representations regarding delivery of required

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<sup>13</sup> 15 U.S.C. 78f(b)(5).



deposits and redemption procedures, as described above, the Sponsors represent that such changes are being made in connection with the implementation of the T+2 settlement cycle for securities transactions in accordance with Rule 15c6-1(a) under the Act.

With respect to the term GC Metal Account, such term has been introduced in the Registration Statement to clarify that the Custodian will maintain certain accounts that are designed to facilitate transfers of gold when an Authorized Participant elects to transfer gold from a third party unallocated account, and not from an unallocated account maintained with the Gold Corporation.

The Sponsors represent that the proposed changes described above are consistent with the Trust's investment objective, and will further assist the Sponsors to achieve such investment objective. Except for the changes noted above, all other representations made in the Prior Releases remain unchanged.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange believes the proposed rule changes, because of the potential increase in secondary market trading activity that may result from a decrease in the Basket size for Shares of the Trust, the corresponding reduction in the initial Basket Gold Amount, and the reduction in certain time frames, regarding delivery of required deposits and other redemption procedures will enhance competition among issues of gold-based Commodity-Based Trust Shares.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>14</sup> and Rule 19b-4(f)(6) thereunder.<sup>15</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>16</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>17</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that the Trust plans to launch trading in the Shares on the Exchange prior to such delayed operative date if this proposed rule change is effective and operative. Additionally, the Exchange asserts that waiver would be consistent with the protection of investors and the public interest because reducing the size of a Basket may provide potential benefits to investors by facilitating additional creation and redemption activity in the Shares, thereby potentially resulting in increased secondary market trading activity, tighter bid/ask

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<sup>14</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

<sup>17</sup> 17 CFR 240.19b-4(f)(6)(iii).

spreads and narrower premiums or discounts to NAV.<sup>18</sup> The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.<sup>19</sup>

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>20</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2018-32 on the subject line.

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<sup>18</sup> See supra text accompanying note 7.

<sup>19</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>20</sup> 15 U.S.C. 78s(b)(2)(B).

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2018-32. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All

submissions should refer to File Number SR-NYSEArca-2018-32, and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

Eduardo A. Aleman,  
Assistant Secretary.

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<sup>21</sup> 17 CFR 200.30-3(a)(12).

